

Flynn also states as some of his Objects:

“ . . . Another object is to make the generation of rotational energy less expensive and more reliable.”

“ ... Another object is to teach a novel way of generating energy by varying magnetic interaction forces between permanent magnets.”

There exists no equivalence between the two. As per the Doctrine of Equivalents, there will be equivalence if “ . . . if the device performs the same function in the same way to achieve the same result as the claim element, or the role of the device element is substantially the same as that of the claim element.” Accordingly, the art of present invention does not read on the apparatus of Flynn:

1. Present art does not perform same function in the same way to achieve the same result
2. The role of the device element is substantially different than that of Flynn.

Office Action of 5/10/2005 states: “Either magnetic motor configuration would provide power to operate the drive shaft of the vehicle.”

The Flynn motor does not have the physical means by which to operate a conventional mobile passenger vehicle or automobile. Its objects are, in part, for, in the words of Flynn: “The present construction is also relatively easy to control, is relatively stable and produces an amazing amount of output energy.”

Flynn’s motor and present invention element are substantially different in that present invention element has:

1. a difference in perspective orientation and operation of discs.
2. an interposing rotational device which serves as the drive shaft connection to the front wheels and rear wheels of an automobile.
3. grooved surfaces of facing drive discs that are designed to allow gear teeth to traverse them for lower and higher speeds.
4. a slidable interposing rotational device between the two drive discs. This rotational device is at a precise right angle to the central vertical support. Such rotational device is not present in the Flynn device.

Flynn teaches the art of small electrical motors.

1. Even if the references were within the proper field of endeavor of present invention, the combined teaching of the cited references still fail to fully teach the invention recited herein. This is so because the cited references do not come from analogous art and, therefore, are not within the scope and content of the prior art as required by U.S.C., Title 35, Sec. 103 (a). The cited reference(s) have to be within the field of the inventor’s endeavor or be reasonably pertinent to the particular problem with which the inventor is involved; See: (In re Deminski, 796 F.2d 436 (Fed. Cir. 1986). There must be some affirmative teaching in the references cited to qualify a combination. Such suggestion is asserted to be lacking in the references cited against present claims.
2. Any one of the applied references do not qualify as prior art under any one of the USC 102 sections. If such references do not constitute prior art under one of those sections, then it is inappropriate to use them as references in an obviousness rejection.

## § 102. Conditions for patentability; novelty and loss of right to patent

A person shall be entitled to a patent unless:

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent, or

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States

As a combination, references do not include analogous art. The conjoining of the two references of Flynn and Bisel et al. do not qualify as prior art under any one of the sections under U.S.C. 102. Therefore, stated references are inapplicable as a means for an obviousness rejection. Prior art references do not teach or suggest all of claimed limitations.

### ARGUMENTS AGAINST OBVIOUSNESS BASED UPON COMBINING REFERENCES ("The references lack suggestion to combine")

1. The references take mutually exclusive paths and reach different solutions to dissimilar objectives. Since they teach away from each other, it would not be logical to combine them. It does not appear in any reference in the art of either Flynn or Bisel et al. that there had been an intent to combine their inventions to obviate present invention.
2. The results of present invention is not envisioned by either Flynn. His art is exclusive to a non-analogous field to that of invention presented herein; it is not sufficient enough to cause the propelling action necessary to move a conventional passenger vehicle, truck or boat. Bisel et al., individually as a group, do not presume in their apparatus the component of the central support necessary for the two facing Drive Discs with peripheral magnetized edges as is required and described in present application for optimum magnetic torque of an interposing Drive Shaft.
3. It would be necessary to make modifications to in the exclusive art work of both Bisel et al. and that of Flynn. This is not taught in the prior art. If they could be combined, as they are, the references would produce an inoperative combination.
4. If the invention were in fact obvious, because of its advantages, those skilled in the art would have implemented it by now. That is, the fact that those skilled in the art have not implemented the invention, despite its great advantages, indicates that it is not obvious.

### THE REFERENCES DO NOT FULLY TEACH THE CLAIMED COMBINATION: (The Combination draws upon Non-analogous art references)

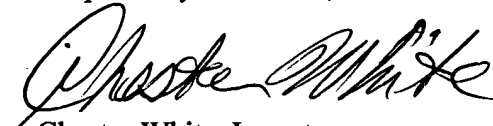
To combine references properly, each of the references must be relevant to the field of endeavor recited in the claimed invention or problem addressed by the invention. Such is clearly not the case with the above-cited references to Flynn and Bisel et al. The important factors to consider are the similarities and differences in structure and function of the inventions in question if the obviousness challenge is to be effective as a rationale for rejection. See: (In re Ellis, 476 F.2d 1370, (C.C.P.A. 1978)). There is nothing in the references themselves that would suggest a combination of the two cited references. If they are not each directed toward solving the same problem to which the present invention is also directed, then the rejection should be withdrawn. The

examiner must specifically explain where motivation to combine references comes from. (In re Rouffet, 149 F.3d 1350 (Fed. Cir. 1998)).

In conclusion, present inventor's claims are distinguished over references of prior art citations, Flynn, (US Patent 5,455,474) in view of Bisel et al., (US Patent 5,036,930) due to the fact that they do not anticipate patentability of present application claims of inventor since prior art references do not teach the elements of present claim. Therefore, cited references do not anticipate claim of invention; it is distinguishable over references of prior art indicated by examiner. [35 U.S.C. Sec. 103 (A)] states: "... that the subject matter as a whole would have been obvious at the time the invention was made ..." In accordance with this, the references must expressly, or by implication, suggest the presently claimed invention. Clearly, this is not the case. The U.S.P.T.O. Office Action of 5/10/2005 has not shown a convincing line of reasoning as to how the two prior art artisans, as noted above, have rendered present invention to be obvious through a combining of their respective invention elements.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. I thank You.

Respectfully submitted,



Chester White, Inventor

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